

AMENDED IN SENATE MARCH 27, 2001

SENATE BILL

No. 129

Introduced by Senator Burton

January 25, 2001

An act to amend Section 3605 of the Penal Code, relating to death penalty executions.

LEGISLATIVE COUNSEL'S DIGEST

SB 129, as amended, Burton. Death penalty executions: physicians.

Existing law directs the warden of the state prison where an execution is scheduled to take place to invite various persons to witness the execution, including 2 physicians.

This bill would remove the requirement that the warden invite physicians to the execution *and permit him or her to invite any Department of Corrections employee*. The bill would provide that no physician *or any other invited person* may be compelled to attend an execution, and that a physician's refusal to attend may not be used in any disciplinary action or negative job performance citation.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3605 of the Penal Code is amended to
2 read:
3 3605. (a) The warden of the state prison where the execution
4 is to take place shall be present at the execution and shall, subject
5 to any applicable requirement or definition set forth in subdivision

1 (b), invite the presence of the Attorney General, the members of
2 the immediate family of the victim or victims of the defendant, and
3 at least 12 reputable citizens, to be selected by the warden. The
4 warden shall, at the request of the defendant, permit those
5 ministers of the Gospel, not exceeding two, as the defendant may
6 name, and any persons, relatives or friends, not to exceed five, to
7 be present at the execution, together with those peace officers *or*
8 *any other Department of Corrections employee* as he or she may
9 think expedient, to witness the execution. But no other persons
10 than those specified in this section may be present at the execution,
11 nor may any person under 18 years of age be allowed to witness
12 the execution.

13 (b) (1) For purposes of an invitation required by subdivision
14 (a) to members of the immediate family of the victim or victims
15 of the defendant, the warden of the state prison where the
16 execution is to take place shall make the invitation only if a
17 member of the immediate family of the victim or victims of the
18 defendant so requests in writing. In the event that a written request
19 is made, the warden of the state prison where the execution is to
20 take place shall automatically make the invitation 30 days prior to
21 the date of an imminent execution or as close to this date as
22 practicable.

23 (2) For purposes of this section, “immediate family” means
24 those persons who are related by blood, adoption, or marriage,
25 within the second degree of consanguinity or affinity.

26 (c) No physician *or any other person invited pursuant to this*
27 *section*, whether or not employed by the Department of
28 Corrections, shall be compelled to attend the execution, and any
29 physician’s attendance shall be voluntary. A physician’s *or any*
30 *other person’s* refusal to attend the execution shall not be used in
31 any disciplinary action or negative job performance citation.

